



State of Delaware  
Commission on Forensic Science

Minutes - 5/6/19

10:30 a.m. to 12:30 p.m.

DFS – 1<sup>st</sup> Floor Conference Room, 200 South Adams, Wilmington

1. Welcome, Call to Order

- Chair R. L. Hughes called the Commission meeting to order at 10:36 a.m. In attendance were:

Voting Commission Members

DAG Barzilai Axelrod

Secretary Rob Coupe

Chief Randall L. Hughes

Representative John Mitchell

Senator Nicole Poore

Lisa Schwind, RN, Esquire

Anita Symonds, RN

Department of Justice

Department of Safety & Homeland Security – Vice Chair

Delaware Police Chiefs' Council – Chair

Delaware House of Representatives

Delaware State Senate

Office of Defense Services-Public Defender's Office

Public Member

Non-voting Attendees

Commission's Legal Support

DAG Lisa Morris

Department of Justice

Additional Non-voting Attendees

Jamie Armstrong

Johna Esposito

John R. Evans

Rebecca Walker

DFS - DNA CODIS Administrator

DFS - Quality Assurance Manager

DFS - Director

DFS - Chief Operating Officer

Absent Voting Commission Members

Major Daniel Meadows

Secretary Kara Walker

Delaware State Troopers Association

Department of Health & Social Services

2. Approval of the Minutes

- Chief Hughes said that before he asks for a motion to approve the minutes from the last Commission meeting, he would like the following edit to be made: Page 6, under Quality Assurance, eliminate 2 sentences, beginning with "Director Evans said ..." and ending "when the meeting has concluded". Chief Hughes asked if there were any other additions/edits; hearing none, he asked for a motion to approve. Ms. Anita Symonds made the motion to approve; Secretary Couple seconded the motion. Hearing no objections, all voting members in attendance unanimously voted to approve the minutes of the February 11, 2019 meeting.

### 3. Date of Next Commission Meeting

- Chief Hughes said that the Commission needs to establish a date for the next meeting. He said with the legislative season over, perhaps it could be held in the July/August timeframe. Several dates were proffered and a decision was made to tentatively go with August 5<sup>th</sup>. DAG Lisa Morris suggested the Commission also select a back-up meeting date for September in case a quorum is not obtained for the August meeting. Monday, September 9<sup>th</sup>, was selected as the back-up meeting date.

### 4. Status Open Commission Position

- Chief Hughes asked if Secretary Coupe had received any nominees for the remaining open position on the Commission. The Secretary responded that the one nominee put forth was University of Delaware Professor Donald Lehman, who, in addition to being on the staff at the university, also currently serves as a member of the Commission's Strategic Planning Advisory subcommittee. Director Evans added that Professor Lehman is also very active in the DFS Internship program. Secretary Coupe said that on the behalf of Governor Carney, he presented the offer to Professor Lehman and he accepted. Secretary Coupe then informed Lydia Massey and the process began for the official appointment/Oath of Office paperwork. The Secretary said Professor Lehman should be able to join us at our next meeting.

### 5. DFS Director's Report

#### **Staffing:**

- Director Evans recalled that at the last meeting, he reported that the two vacant chemist positions were laterally transferred from the Forensic Chemistry Unit to the Toxicology Unit. Both of those positions were filled in mid and late April and their training is now underway.
- The open Administrative Specialist I position was filled on April 15<sup>th</sup>. She will assist Dr. Collins and other office staff.
- The casual seasonal Pathologist position at the Georgetown Office continues to be posted on both the state and NAME websites. On May 3<sup>rd</sup>, an interview was conducted with a seasoned Pathologist, who has worked in Philadelphia, D.C. and Virginia. Director Evans said he will be meeting with Dr. Collins to discuss the results of the interview.
- A selection and offer was made to fill an Analytical Chemist III position which was open due to a lateral transfer from the Forensic Chemistry Unit to the Toxicology Unit. The candidate is currently in the background phase.
- Kyle Rice, a casual seasonal Forensic Investigator in the Wilmington Office, tendered his resignation effective March 23<sup>rd</sup>, due to additional commitments with his full time employer. The position was posted on the DE website and interviews are scheduled for May 22<sup>nd</sup>.

- Director Evans recognized a few work anniversaries since the last meeting and thanked each of them for their years of dedicated service to the State of Delaware:
  - Sarah Lindauer, Senior DNA Analyst, celebrated her 10<sup>th</sup> Anniversary with the DFS;
  - Amanda Chang, Forensic DNA Analyst, has been with the DFS for two years;
  - Both Hans Southerland, Forensic Investigator and Marlene Simmons, an Administrative Specialist, celebrated their 25<sup>th</sup> Anniversary with DFS.

### **Forensic Chemistry Unit:**

- On March 11<sup>th</sup>, the FCU underwent an onsite auditor review to extend the Unit's scope by adding Fire Debris Analysis. The ANAB auditor was impressed with the organization of the review and the steps that FCU had taken to meet the accreditation standards. Director Evans thanked Johna Esposito for coordinating the review and Melissa Newell, Ashley Wang and Ashley Rush for updating our testing standards, validating instrumentation. He also recognized both Ashley Wang and Ashley Rush for successfully completing their verbal and moot court competencies in fire debris analysis. As a result, DFS will soon begin to accept fire debris evidence from the State Fire Marshall and will no longer need to outsource that evidence for testing.
- The FCU continues to effectively manage its' caseload with a current turnaround time of approximately 23 calendar days.
- Lab Manager Melissa Newell gave a Webex® presentation on Forensic Chemistry to Perdue University Students.

### **DNA Unit:**

- The National Institute of Justice and the Scientific Working Group on DNA Analysis Methods (SWGDM) will be developing a "Best Practices for DNA Laboratory Efficiency Improvements" document. DNA Technical Leader Amrita Lal-Paterson was invited to sit on the Laboratory Operations Subcommittee which will have several in-person meetings in Washington D.C. along with conference calls. The final document is expected to be released in early 2020. Amrita also moderated a multidisciplinary session entitled, "Justice Cannot Happen in a Vacuum" at the American Academy of Forensic Science Conference in Baltimore.
- Ms. Lal-Paterson and DNA CODIS Administrator, Jamie Armstrong, assisted the City of Philadelphia Police Dept. Crime Lab with their selection process to fill a Forensic Scientist position.
- There was a total of approximately 21 CODIS hits or matches both at the local and National level since our last meeting. Six of those hits were as a result of the Sexual Assault Kit Initiative (SAKI).
- The DNA Unit currently has a zero backlog in both casework and offender samples and a turnaround time on testing of 41 calendar days.

- In follow-up to the last Commission meeting, the DNA Unit has developed a consistent and documented notification process for CODIS hits. Jamie Armstrong (the State CODIS Administrator) will send a notification e-mail, with the notification letter attached to the identified POC, who is a paralegal at the DOJ, in each of the three counties in addition to the investigating agency. It is clearly noted in the body of the e-mail that an e-mail response to Jamie is required upon receipt. The response e-mail confirming receipt by the DOJ is then scanned and entered into the object repository of the case file in FLIMS. This process began in early March and is working well.

### **Toxicology Unit:**

- The Tox Unit has received delivery of a new LC-MS/MS instrument and have contracted with PinPoint® to complete the testing and validation of the Fentanyl and Fentanyl Analogue Panel on the new instrument. This instrument was purchased at a cost of approximately \$400,000 and was funded entirely through a combination of grants through the CJC and Public Health. This instrument has quicker and less extensive extraction procedures and the ability to identify and measure a broader range of compounds including Fentanyl analogues.
- As of last report, there were 144 open postmortem cases, 137 of which were either in progress or in review, and there were 97 DUI cases in progress. The current average turnaround time is 46 calendar days for DUIs and 43 days for postmortem cases.
- On the training and outreach front, several members of the Tox Unit attended the American Academy of Forensic Sciences Conference in Baltimore. In addition, Jessica Smith provided training at the Advanced Roadside Impaired Driving class in Dover.

### **Medical Examiner Unit:**

- Director Evans said he is glad to report that the morgue renovation project has been substantially completed with only the commissioning of the HVAC remaining. DFS resumed completing autopsies downstairs in the smaller room on May 1<sup>st</sup> and to date, operations are running well with no significant issues.
- This renovation project began in mid-July of 2018 and has continued for the last nine months. Director Evans thanked the Division's external partners and customers for their patience and understanding. He especially acknowledged the M.E. Unit for their flexibility, hard work and dedication during the morgue project to ensure that not only did the M.E. Unit continue to meet the mission, but did so with as little impact to our customers as possible. He is proud to report that they were successful in that regard.
- Before the renovation, the morgue was original to the building from the late 1960's and was outdated with failing equipment requiring on-going and constant repair. The autopsy suite is now state of the art and provides a much more efficient work environment with its own dedicated negative pressure HVAC system as opposed to the shared system of the past.

### **Grant Funds:**

- Director Evans said he earlier mentioned the use of grant funds to purchase a new LC-MS/MS. In 2018, the DFS received \$108,332.00 from the CJC and \$137,029.00 from Public Health, for a total of \$245,361.00 in grant monies. This money allowed for our dedicated staff to travel and receive specialized training and funded the purchase of equipment, all of which would not have been possible with the budgeted state funds. In 2019, the DFS is looking forward to continued grant monies from the CJC and Public Health totaling \$477,636.00. He then acknowledged Becky Walker, who has been monitoring those grants, and who continues to look for grant opportunities as an alternate funding source in 2019.

### **Legislation:**

- Melissa Newell worked with DAG Lisa Morris and Kimberly Chandler to draft a proposed amendment to Title 16 of the DE code relating to the Uniform Controlled Substance Act. Specifically, the recommendation to update the scheduling of Fentanyl analogues using language provided by the DEA. Senator Nicole Poore is the sponsor of that bill.
- Chief Hughes asked if there were any questions/comments for Director Evans.
  - Secretary Coupe expressed his thanks to the DFS individuals mentioned here today, for their leadership and dedication; he said these are the most uplifting reports heard in a while. Again, he said, thank you to Director Evans and his staff for the great work – it is appreciated.
  - Chief Hughes asked if the new LC-MS/MS instrument has been validated; Director Evans answered that the timeframe for completion is August.
  - ODS Schwind commented that if any Commission member has not yet seen the new morgue suite, she suggests they take a look. She had the occasion to see it when at DFS for a different meeting. She said it even looks to be more labor saving. Director Evans agreed and said it is going to be a lot more efficient and safer there now. He said the unit is not prepared today for a tour as autopsies are currently underway, however, he does have a tour for Commission members on his agenda.
  - Chief Hughes asked Director Evans if he has heard anything at all from law enforcement in regard to the 46-day turnaround on DUI's. Director Evans said he has not received any feedback on this subject. Chief Hughes is mentioning this only because in Sussex County, the court is a real stickler on time and the 46-day turnaround time goes beyond what Sussex CCP would like it to be. Secretary Coupe asked if this turnaround time applies only to DFS drug cases, as the blood alcohol testing is still done by the DSP Lab. Chief Hughes believes it applies to both types of testing. Chief Hughes will discuss further with Secretary Coupe outside of this meeting.
  - Chief Hughes noted that the 23-day turnaround time in FCU and the "0" backlog in DNA is good to hear. In a related matter, he said, the SAKI initiative is moving forward and he is pleased to report that on Tuesday (5/7/19), his agency will have "0" backlog. Director Evans noted that DNA has been proactive in reaching out to law enforcement when the opportunity is present for them to bring in more cases.

## 6. Standards & Certifications Advisory Committee

- Johna Esposito stated that last year and throughout the first months of 2019, the committee worked on justifying DFS salaries and developing career ladders. At the last meeting, she said, the committee advised an addendum to the report, with additional career ladders and salaries to accompany them, would be forthcoming. Ms. Esposito stated that is what she has put in front of Commission members today. She said she will not go into all the specifics now but would like to mention a couple of points.
  - Using the salaries that had already been justified, they are now broken down into two different categories - one for the Laboratory units and one for the Medical Examiner unit and they are laid out a little differently as far as career ladders go.
  - There is information about certifications, degrees, education, etc., in regard to what should be required to make sure that not only do we have very qualified people, but would also encourage people to get a particular certification/degree. Currently, there is no incentive to do that so it is built into the career ladder that if a certain type of certification or degree is achieved, there would be a corresponding bump in pay.
- Chief Hughes said there is a lot of good information provided in this addendum. He is particularly pleased to see the advanced degree portion of the career ladder as the State already has this in the educational field and it should be in the scientific community as well.
- Senator Poore asked if DFS were working with Delaware universities regarding internships and science programs. Director Evans replied that Becky Walker coordinates the internship program and there is a deluge of summer intern applicants at this time of year. He said DFS accommodates as many interns as possible, first looking to Delaware students in Delaware schools and then to Delaware students going to schools out of state. DFS does this to the extent that each of the four disciplines have interns practically year-round. As to Senator Poore's point, said Director Evans, our goal is to recruit them for future opportunities here. Chief Hughes noted that having Professor Lehman from the University of Delaware now sitting on the Commission should be beneficial to the internship program.
- Chief Hughes asked Secretary Coupe if the SAC committee's report could be shared with DHR (Department of Human Resources) as DHR have already started an initiative concerning salaries throughout the State. Secretary Coupe said he will put together a package and introduce it to DHR Secretary Johnson. He said that he is aware the outside contractor is doing an assessment similar to what was done here, but it was for employees throughout the entire state. Secretary Coupe said, however, we have not been privy to their findings and do not know whether the positions here at DFS are being included in their review. Director Evans said he heard this contractor was going to conduct field interviews but they have not yet reached out to us. He believes it would be very advantageous for them to meet and speak with DFS employees.

- Senator Poore asked about implementation of career ladders or retention plans. Secretary Coupe said he is not aware of a schedule and explained that although the Standards & Certifications Advisory Committee was formed prior to his presence on the Commission, he learned that this committee was created because one of the many things the Commission recognized was the DFS high turnover rate. Due to the elevated level of qualifications that the positions required -- when someone left with all that experience, it took a lot of time for replacement. This subcommittee looked to see what could be done for retention of employees. The Secretary noted that one area of success has been the securing of grant funding for training. It was one of the many challenges for the DFS Director so with the procurement of those funds, DFS was able to provide a lot more training opportunities in order to support DFS individuals with growth. He said what they do not have is the salary table to support that experience. A long discussion ensued about salary structure throughout the state and about the vendor brought in to gather data and submit their findings to the Governor.

## 7. Strategic Planning and Advisory Committee

- DAG Axelrod reported the committee has been hard at work on tasks assigned to them, even echoing some of the things the Standards & Certifications committee has done. He said a draft of what the Committee hopes will become its final report was emailed to Commission members. The report basically focuses on two primary Andrews International's recommendations that have not been met, and will not be able to be met, which are numbers 5 and 8.
- DAG Axelrod said the first recommendation (#5) concerns personnel and salary structures, and whether or not Delaware will continue to be a training ground for other states. Therefore, in some measure, the other committee's report is being incorporated into this one.
- DAG Axelrod continued that the second recommendation (#8) is in regard to the physical facility itself. He said ultimately there is a 5-word sentence within their report which, in essence, says – "DFS needs a new facility" and that was in 2014.
- He said that one of the things the two subcommittees are trying to do is not just to say DFS needs a new facility and needs more personnel, but the committees are trying to present real world issues that come with the building. To that end, he said, his committee has looked at a Project Foresight report which is a conglomerate of 100+ laboratories who have submitted data to this economics group. From there, the committee was able to figure out that DFS caseloads track well above the median for labs across the nation. The committee also found a couple of publications from the NIST (National Institute of Standards and Technology), one from 1998 and one from 2013, which set forth guidelines when trying to figure out whether or not the size of a facility is adequate for the number of people and labs residing there. When the committee compared the size of the facility indicated by the guidelines in the NIST publications, it was determined that the size of the current DFS facility is half of what is required.

- DAG Axelrod would like to have any comments/questions emailed to him directly over the next two weeks. After discussion with Committee members, he will make whatever changes are necessary. He said he would like to present the final report in advance of the next Commission meeting.

## 8. Commission's Goals/Objectives for 2019

- Chief Hughes said that over the past few months, he has had the opportunity to talk to a number of legislators (we have two very good ones here today), and Commission members. Based on what he is hearing right now, he said, one of our goals/objectives should be getting into these two reports from both subcommittees and keep pressing the issues. He said we should reach out to our JFC members and Bond Bill members and talk with them about it as he thinks this will be very important. Chief Hughes asked if there were any other ideas on how we can best accomplish this goal.
- Secretary Coupe said one of our goals would be personnel and employee development and under that, hopefully, we can gain consideration for a career ladder and salary compensation proposal as it relates to the goal of improving our retention rate. If we were able to get the career ladder and salary compensation, he hopes that besides a healthy, happy workforce, it would result in improved retention. The Secretary said that once Commission members have read DAG Axelrod's committee report on the DFS facility, hopefully, we can better articulate a goal there. He noted that since such a large investment was made in the morgue, perhaps a little faster way to go is to look for a separate building for the FCU and DNA units and perhaps have the TOX unit stay here. He said he did not invent this, but it's an idea that was shared with him when he first came to the Commission – that it would be a more realistic path for the short term. He said this is with the understanding that in the long term, a new state-of-the-art facility housing all forensics would be the dream. So at some point, he said, we need to know, as a Commission, where we stand.
- ODS Schwind noted that since the start of this Commission, it was the perception that it was a good idea putting all forensics under one roof. This way, the quality assurance could be maintained and accreditation attained for all our agencies, i.e., fingerprinting, firearms, DUIs, etc. -- all under one jurisdiction. ODS Schwind continued that in the beginning, the Strategic Planning subcommittee looked at other forensic agencies in our geographical region and those facilities apparently decided it was a good idea, too, because they had it all under one roof. ODS Schwind added that when the committee visited the Maryland forensics facility, they had enough space available for future growth. She said that from listening to the subcommittee's report and people from the science community, there seems to be a lot of expense incurred just for the investment of the labs themselves, putting in all the hoods, electrical, plumbing – it's not like just moving from office to office, hooking and unhooking a computer. She said it seems to her that in order to really save taxpayer money in the long run, it would be a better decision to find a new a place where DFS could go with room to build later on.
- Chief Hughes agreed with ODS Schwind about finding a new facility but said that a tremendous amount of money has been invested here, so the ME and TOX units staying here, he understands. However, moving forward, he said, the opportunity for expansion only exists in a new facility. A new facility would certainly give growth opportunities and would provide the ability to add the other forensic communities. He believes all forensics under one roof is the most realistic path forward.



- Senator Poore asked why DFS is located here and not in the center of the State. ODS Schwind replied she thinks when this facility was built, circa 1970, more court cases were up here in New Castle County but since that time, there has been tremendous growth and expansion in Kent and Sussex counties. Senator Poore said she was asking because DFS is apparently landlocked here and if DFS wants a new build, she is not sure they will find enough space to make it happen in New Castle County. Chief Hughes agreed and said further south should be considered, even southern New Castle County could be included. He said that to find ample space, DFS would have to move out of the city. Rep. Mitchell asked if a larger percentage of cases are still coming from New Castle County in comparison to Kent and Sussex. Director Evans replied, not from the Medical Examiner Unit's perspective, no; so to Lisa's point about the population growth being predominantly down there, as a result DFS is having more deaths from Kent and Sussex counties that fall within our jurisdiction. Rep. Mitchell said he has previously reported to Commission members, and now Senator Poore, that the city legislators had voiced their concern about moving this facility out of the city of Wilmington. He said has always had the mindset that their concerns must be taken into consideration but operational needs override anything else. He said that if it is clearly shown that DFS needs to move out of Wilmington, then it would be justified. Senator Poore asked if this was coming from previous or current legislators. Representative Mitchell replied that it has come from both previous and current legislators.

## 9. Open Discussion

- Chief Hughes said he previously notified Commission members that it was time to replace the Chair/Vice Chair positions. However, he has been sitting as the Chair since January with no volunteers or nominations. He said he is not asking that this be done at today's meeting, but please contact him should someone like to take the Chair position.
- Senator Poore said she has been looking for by-laws, term limits, regulations, etc. anything like that concerning this Commission, but has been unable to find anything. DAG Lisa Morris explained that Commission members who were present at the Commission's inception, did come up with a set of rules and voted on it. They wanted to pass them as regulations, which is available to them under the statute, but hadn't done that as they wanted to hold off until the compositions of the committees. A draft form was drawn up and approved regarding how the Commission would operate. As to respect of term limits; DAG Morris said, Commission members did come up with term limits and while she was on maternity leave last summer, those terms were coming due. It is her understanding that it was discussed here and at the Governor's office and the report back was that the statute didn't address specifically term limits, so we didn't necessarily have to pick them. Senator Poore thinks with all the things that have previously popped up, one always wants to keep their Commission in top shape because after a while, some people can get a little stale. Secretary Coupe said only two of our members are appointed by the Governor, the others are appointments by position. DAG Morris said that she can send Senator Poore some of the documents for a historical perspective of what was agreed to and most of the players are still here. Secretary Coupe said the role of the Commission make-up should be reviewed and to determine if this is the best model moving forward

- Representative Mitchell said as he was following along with the minutes earlier, he noticed a couple of items needing to be corrected in the 2/11/19 meeting minutes. On page 4, in the first sentence, the word “manpower” should be changed to “staffing” and on page 8, the first paragraph under the Standards and Certifications Advisory Committee report, the meeting date should be “11/14/18”, not “11/14/19”. Chief Hughes said these changes will be included in the 2/11/19 minutes.
- Chief Hughes said that this Commission could also benefit from a budget. ODS Schwind agreed and said seminars and conferences come up and have recently, which pertain to what the Commission is trying to do, and members could benefit greatly from attending and learning. Senator Poore asked what monies do members think they would need – say, \$50,000? From a leadership perspective, said Chief Hughes, a budget would give us opportunities to have a say in some of the training that needs to take place. Perhaps when some employees are sent for a seminar or training session, one of the Commission members could accompany them. Yes, said Chief Hughes, \$50,000 would be sufficient.

#### Adjourn

- The meeting was adjourned at 12:38 p.m.

Next Meeting Date: Monday, August 5, 2019  
DFS – Wilmington, 1<sup>st</sup> Floor Conference Room  
10:00 am – 12:00 pm